

Agricultural Marketing Service, USDA

§ 29.81

no less than 18 inches between immediately adjacent lots.

[65 FR 46086, July 27, 2000]

§ 29.75c Display of tobacco at receiving stations.

Each lot of tobacco delivered for sale at receiving stations and transferred to a conveyor system for unloading shall maintain a distance between adjacent lots of not less than 18 inches during the inspection process. The platform area used for examination with a conveyor system shall be a minimum of 4 × 4 feet. Any lots of tobacco displayed in a manner other than a conveyor system shall maintain a minimum clearance of 18 inches on all sides. If the tobacco is inspected or graded by the recipient, it shall be made available for mandatory inspection at the same time and location within the receiving station.

[67 FR 36081, May 23, 2002]

§ 29.76 Mandatory inspection ticket.

A mandatory inspection ticket shall consist of a Tobacco Inspection Certificate made and issued in combination with an auction warehouse ticket in a form approved by the Director.

§ 29.77 Warehousemen to provide tickets.

A mandatory inspection ticket, in the form required by § 29.76 shall be provided by each auction warehouseman on a designated market to cover each lot of tobacco offered for sale at auction by him on such market.

§ 29.78 Changes or alterations.

No change or alteration shall be made, in the weight or other identification of the lot, on a mandatory inspection ticket after the certification of type and grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the Act.

§ 29.79 Disposition of ticket.

One copy of the mandatory inspection ticket shall be attached to, or placed on, the tobacco certificated as a further identification of the lot and all copies of such ticket shall become null

and void when such identifying copy is removed from the lot. When and as requested by the Director, one copy of such ticket, showing (a) the certification of type and grade; (b) the weight and other identification; and (c) the details of the sale at auction, shall be delivered by the warehouseman to the Division or the head inspector of the market.

§ 29.80 Announcing grades.

The grade of each lot of tobacco as certified by an official inspector on a designated market shall be clearly announced by the warehouseman or his representative at the time the lot is offered in the auction: *Provided*, That the Director may waive the requirement of announcing grades in the auction if he finds it impractical for the warehouseman to render this service.

§ 29.81 Interference with inspectors.

(a) *Auction*. (1) No person, including the owner, producer, warehouseman, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head grader or to the market supervisor grader.

(2) In the event that the head grader or market supervisor grader determines that a person has violated any provision of this section, inspection ticket(s) if already issued on the lot(s) of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: *Provided*, That if violation consists of talking to the inspector while he/she is grading the tobacco, a warning shall be given on first

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offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of lots or pounds allotted per day per set of buyers from being sold in a designated market.

(b) *Other.* No person, including the owner, producer, receiving station operator, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco.

(c) *Administrative Remedies.* The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the Act.

[67 FR 36081, May 23, 2002]

APPEAL

§ 29.90 When appeal may be taken.

Whenever an interested party believes that a certificate issued or a sample prepared under the act is not correct he may file an appeal: *Provided*, That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper reinspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

§ 29.91 How to obtain an appeal.

An appeal shall be made in writing and filed with the Division or the office of inspection for the type of tobacco involved. Such appeal shall show:

(a) The date; (b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Director. The appeal shall be accompanied by the certificate

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or sample from which the appeal is taken, unless such requirement is waived by the Division when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

§ 29.92 Record of filing time.

When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

§ 29.93 When appeal may be refused.

If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the act or this subpart have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Division; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in § 29.126.

§ 29.94 When appeal may be withdrawn.

An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in § 29.126.

§ 29.95 Review or second inspection not an appeal.

A review or investigation made in accordance with § 29.132, or a second inspection, sampling, or weighing made upon the request of an interested party for the purpose of securing new or later information when the correctness of an old certificate or sample is not questioned, shall not be considered an appeal.